

D/F

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ERIC HERZLICH,

Plaintiff,

-against-

NASSAU B.O.C.E.S., MARGUERITE COSTELLO,
JEFFREY DRUCKER, VALERIE DAGUANNO,
and CHERYL HOBBS, each in his or her individual
capacity,

Defendants.

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FEUERSTEIN, J.

On May 16, 2012, plaintiff Eric Herzlich (“plaintiff”) filed his amended complaint against defendants Nassau Board of Cooperative Education Services (“BOCES”), Marguerite Costello, Jeffrey Drucker, Valerie Daguanno, and Cheryl Hobbs (collectively, “defendants”), alleging violations of his constitutional rights under the First and Fourteenth Amendments to the Constitution of the United States. Defendants have moved to dismiss plaintiff’s claims. [Docket Entry No. 20]. Now before the Court is the Report and Recommendation of Magistrate Judge A. Kathleen Tomlinson dated August 26, 2013 (the “Report”) recommending that the Court grant defendants’ motion to dismiss and dismiss plaintiff’s amended complaint. [Docket Entry No. 25]. No objections to the Report have been filed. For the reasons that follow, the Court adopts Magistrate Judge Tomlinson’s Report in its entirety.

ORDER

12-CV-220 (SJF) (AKT)

FILED
IN CLERK'S OFFICE
U S DISTRICT COURT E D N Y

★ SEP 23 2013 ★

LONG ISLAND OFFICE

I. Standard of Review

Rule 72 of the Federal Rules of Civil Procedure permits a magistrate judge to conduct proceedings of dispositive pretrial matters without the consent of the parties. Fed. R. Civ. P. 72(b). Any portion of a report and recommendation on dispositive matters to which a timely objection has been made is reviewed de novo. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). However, “when a party makes only conclusory or general objections, or simply reiterates the original arguments, the Court will review the report strictly for clear error.” Frankel v. City of N.Y., Nos. 06 Civ. 5450, 07 Civ. 3436, 2009 WL 465645, at *2 (S.D.N.Y. Feb. 25, 2009). The Court is not required to review the factual findings or legal conclusions of the magistrate judge as to which no proper objections are made. See Thomas v. Arn, 474 U.S. 140, 150 (1985). To accept the report and recommendation of a magistrate judge on a dispositive matter to which no timely objection has been made, the district judge need only be satisfied that there is no clear error on the face of the record. See Fed. R. Civ. P. 72(b); Johnson v. Goord, 487 F. Supp. 2d 377, 379 (S.D.N.Y. 2007), aff’d, 305 Fed App’x 815 (2d Cir. Jan. 9, 2009); Baptichon v. Nevada State Bank, 304 F. Supp. 2d 451, 453 (E.D.N.Y. 2004), aff’d, 125 Fed. App’x 374 (2d Cir. Apr. 13, 2005). Whether or not proper objections have been filed, the district judge may, after review, accept, reject, or modify any of the magistrate judge’s findings or recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

II. Analysis

No objections to Magistrate Judge Tomlinson’s Report have been filed. Upon review, the Court is satisfied that the Report is not facially erroneous. Accordingly, the Court accepts Magistrate Judge Tomlinson’s Report in its entirety, and plaintiff’s amended complaint is

dismissed with prejudice. The Clerk of Court is respectfully directed to close this case.

SO ORDERED.

s/ Sandra J. Feuerstein

Sandra J. Feuerstein
United States District Judge

Dated: September 23, 2013
Central Islip, New York